

### **REMARKS**

Claims 1-37 are currently pending in the subject application and are presently under consideration. Claims 1, 19, 22, 31, 33 and 34 have been amended, and claims 15, 23 and 32 have been canceled as shown on pages 4-9 of the Reply. In addition, the specification has been amended as indicated on pages 2-3.

Applicants' representative kindly thanks Examiner Dao for the courtesies extended during a telephonic interview conducted on November 6, 2008. The Examiner was contacted to discuss his interpretation of the Gibbons reference. Additionally, distinctions between the subject claims and the Gibbons reference were made. Suggested claim language was discussed that would further distinguish the Gibbons reference from the subject claims, and the claims have been amended herein accordingly.

Favorable reconsideration of the subject patent application is respectfully requested in view of the comments and amendments herein.

#### **I. Rejection of Claims 1-21, and 31-37 Under 35 U.S.C. §101**

Claims 1-21, and 31-37 stand rejected under 35 U.S.C. §101. It is respectfully submitted that these rejections should be withdrawn for at least the following reasons. Claims 1, 31, 33 and 34 have been amended in line with the Examiner's suggestions, as noted in the Office Action dated September 23, 2003, pages 2-4. Accordingly withdrawal of these rejections is respectfully requested.

#### **II. Rejection of Claims 1-13, 15-30, and 33-36 Under 35 U.S.C. §102(e)**

Claims 1-13, 15-30, and 33-36 stand rejected under 35 U.S.C. §102(e) by Gibbons *et al.* (US 2004/0034853 A1), hereinafter Gibbons. It is respectfully submitted that these rejections should be withdrawn for at least the following reasons. Gibbons fails to anticipate each and every element of the subject claims.

A single prior art reference anticipates a patent claim only if it expressly or inherently describes *each and every* limitation set forth in the patent claim. *Trintec Industries, Inc. v. Top-U.S.A. Corp.*, 295 F.3d 1292, 63 USPQ2d 1597 (Fed. Cir. 2002); *See Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631,

2 USPQ2d 1051, 1053 (Fed. Cir. 1987). The identical invention must be shown in as complete detail as is contained in the ... claim. *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989).

The subject claims relate generally to systems and methods that manage applications, and more particularly to systems and methods that use attribution to express management information in an application or service. In particular, claim 1 recites: *A system, embodied in a computer-readable storage medium, that facilitates management of an application or service, comprising: an application or service for installation on the system; and an attribution component that facilitates attributing selected parts of code of the application or service with management information, the management information is identified within the attributed application or service using a uniform resource identifier; where the system uses the management information to manage the installed application or service.*

Gibbons describes adapting software applications for download and execution on a variety of different mobile devices which employ different Application Execution Environments (AEE). See abstract. Furthermore, Gibbons describes that a Mobile Terminal (MT) device is in communication with communication network. See paragraph [0055]. Gibbons further describes a Download Object (DO) is data adapted to be downloaded and utilized by a MT device, such as applications. See paragraph [0056]. The types of DOs available are limited only by the capabilities of the communication network and the MT device. *Id.*

Claim 15, as incorporated into claim 1, recites: *management information is identified within the attributed application or service using a uniform resource identifier.* The Examiner has directed Applicants' representative's attention to Gibbons, paragraphs [0064]-[0068]. Gibbons describes that several types of object attributes specify Uniform Resource Identifiers (URIs) for locating a DO or other resources *on the communication network*. A URI, as described by Gibbons, is also referred to as Uniform Resource Locators (URLs), which are short strings that identify network resources: documents, images, downloadable files, service, electronic mailboxes, and other resources. It is further described that a restriction element includes an attribute for defining a renewal URI.

Furthermore, the Examiner has indicated that the *management information*, described in claim 1, which has been attributed by an attribution component to selected parts of code of an

application or service, is described in Gibbons paragraphs [0099]-[0101]. However, this language merely describes a packager which extracts event-handler code. *See* paragraph [0096]. The packager keeps the extracted event-handler code in order, and assigns a unique sequence number to each fragment of event-handler code. *Id.* The removed application code is then compiled into bytecodes. *See* paragraph [0099]. The stripped XHTML is then processed with the appropriate CSS parameters. *See* paragraph [0100]. If there are multiple target devices with different CSS parameters, then the stripped XHTML is processed separately for each set of CSS parameters. *Id.* The result is two separate data groups, a processed XHTML/CSS group and a compiled bytecode group. *See* paragraph [0101]. Therefore, Gibbons merely describes the substitution of a sequence number in place of event-handler code.

In contrast, the subject claim is associated with source code attribution. Attribution is used to express management information along with the code to which it pertains. Without attribution, two separate pieces of code would need to be written – one for normal application processing and one to expose it to management. Attribution within the source code is used to describe which parts of the code (called probes) should be used to determine and/or correct health, as well as specify when to execute monitoring rules. The subject claim, in part, recites: *an attribution component that facilitates attributing selected parts of code of the application or service with management information and management information is identified within the attributed application or service using a uniform resource identifier*. Gibbons fails to recite attributing selected parts of code with *management information*. Furthermore, Gibbons fails to recite that the *management information*, which has been attributed to selected parts of the code, *is identified using a uniform resource identifier*. Therefore, Gibbons fails to recite each and every element of the subject claim.

Regarding claims 2-13 and 16-21 the claims are patentable for at least the same reasons that independent claim 1 is patentable, and for further recitations herein.

Regarding claim 3, the claim is patentable for at least the same reasons that independent claim 1 is patentable, and for further recitations herein. In particular, claim 3 recites: *the management information is exposed and used to generate a manifest*. The text of the Office Action directs Applicants' representative to Gibbons Fig. 5, paragraphs [0117]-[0122]. However, these paragraphs, as well as the remainder of Gibbons, do not disclose the element of exposing management information, which has attributed to selected parts of the code of an

application or service, and using the exposed management information to generate a manifest. Rather, Gibbons, Fig. 5 merely describes a block diagram illustrating the components of a *content submission by a developer* to a server. Gibbons fails to recite the ***management information is exposed and used to generate a manifest.***

With respect to claim 13, the claim is patentable for at least the same reasons that independent claim 1 is patentable, and for the recitations herein. Claim 13 recites: ***the management information includes health information that is exposed from an in-process provider.*** The Examiner points to Gibbons, paragraphs [0055]-[0063]. However, it is submitted that the language the Examiner has indicated, as well as the remainder of Gibbons, fails to recite ***the management information includes health information that is exposed from an in-process provider.*** Gibbons describes a mobile terminal (MT) device, which utilizes and downloads an adapted download object (DO). See paragraphs [0055]-[0056]. MT device includes an application manager (AM) for managing the downloading of DOs. See paragraph [0059]. It is further described that DO metadata is specified as one or more metadata elements. See paragraph [0061]. At no point does Gibbons recite ***the management information includes health information that is exposed for an in-process provider.*** Therefore, Gibbons fails to disclose each and every element of the subject claim.

Additionally, claim 16 is patentable for at least the same reasons that independent claim 1 is patentable, and for the recitations contained herein. Claim 16 recites: ***the management information includes execution information that indicates when the management information should be executed.*** Applicants' representative has been directed to Gibbons paragraphs [0084]-[0091]. The language indicated merely describes a way to automatically tailor applications to the numerous variations between MT devices. See paragraph [0088]. The packager takes a single application including an XHTML file and combines it with a CSS for each target MT device. *Id.* However, it is submitted that Gibbons, in its entirety, fails to anticipate ***management information, which has been attributed to selected parts of code, includes execution information that indicates when the management information should be executed.***

Regarding claims 22, 33 and claim 34, the claims recite elements not described or suggested by Gibbons. In particular, claim 22 recites: ***A method of managing an application or service, comprising: receiving the application or service for installation on a system; attributing selected parts of code of the application or service with management information; exposing the***

management information to a management system; controlling the application or service based upon the management information that is exposed when the application or service is installed on the system; and **generating a manifest of the exposed management information**. Furthermore, claim 33 recites: *A computer-readable storage medium having computer-executable instructions for performing a method for managing an application or service, the method comprising: receiving the application or service for installation on a system; **attributing selected parts of code of the application or service with management information**; exposing the management information to a management system; controlling the application or service based upon the management information that is exposed when the application or service is installed on the system; and **generating a manifest of the exposed management information***. Additionally, claim 34 recites: *A computer-readable storage medium having computer-executable instructions that facilitates a system for managing an application or service, the system comprising: an application or service for installation on the system; and **an attribution component that facilitates attributing selected parts of code of the application or service with management information, the management information is identified within the attributed application or service using a uniform resource identifier; wherein the management information is exposed and used to generate a manifest; wherein the system uses the management information to manage the installed application or service.***

Following a rationale similar to that of the discussion of claims 1 and 3 above, Applicants' representative submits that Gibbons does not anticipate **attributing selected parts of code of the application or service with management information, identifying the management information within the attributed application or service using a uniform resource identifier or generating a manifest of the exposed management information**. The Examiner directs attention to Gibbons Fig. 5, and paragraphs [0117]-[0119] and [0064]-[0068]. However, it is submitted that the language indicated merely describes the components of a content submission by a developer to a server. *See* paragraph [0117]. Gibbons further describes that a capability matching system matches applications submitted by developers to various types of compatible computing devices employed by users. *See* paragraphs [0119]. Furthermore, Gibbons describes URIs for locating a document objects (DO) or other resources on a communication network. *See* paragraph [0064]. Gibbons, in its entirety, fails to recite **attributing selected parts of code of the application or service with management information, the management information is**

*identified within the attributed application or service using a uniform resource identifier or generating a manifest of the exposed management information.* Therefore, Gibbons fails to recite each and every element of claims 22, 33 and 34.

Regarding claims 24-30 and 35-36, the claims are patentable for at least the same reasons that independent claims 22 and 34 are patentable, as they depend respectively therefrom.

In view of at least the above, it is respectfully submitted that Gibbons does not anticipate each and every element set forth in the subject claims as recited in independent claims 1, 22, 33 and 34 and the dependent claims which respectfully depend therefrom. Accordingly, withdrawal of these rejections is respectfully requested.

### **III. Rejection of Claims 14, 31-32, and 37 Under 35 U.S.C. §103(a)**

Claims 14, 31-32, and 37 stand rejected under 35 U.S.C. §103(a) over Gibbons *et al.* (US 2004/0034853 A1), hereinafter Gibbons, and in view of Gschwind *et al.* (US 7,287,47), hereinafter Gschwind. These rejections should be withdrawn for at least the following reasons. Neither Gibbons nor Gschwind, individually or in combination, teach or suggest all the claim elements.

The rationale to support a conclusion that the claim would have been obvious is that *all the claimed elements were known in the prior art and one skilled in the art could have combined the elements as claimed by known methods* with no change in their respective functions, and the combination yielded nothing more than predictable results to one of ordinary skill in the art. *KSR*, 550 U.S. at \_\_\_, 82 USPQ2d at 1395; *Sakraida v. AG Pro, Inc.*, 425 U.S. 273, 282, 189 USPQ 449, 453 (1976); *Anderson's-Black Rock, Inc. v. Pavement Salvage Co.*, 396 U.S. 57, 62-63, 163 USPQ 673, 675 (1969); *Great Atlantic & P. Tea Co. v. Supermarket Equipment Corp.*, 340 U.S. 147, 152, 87 USPQ 303, 306 (1950). "[I]t can be important to identify a reason that would have prompted a person of ordinary skill in the relevant field to combine the elements in the way the claimed new invention does." *KSR*, 550 U.S. at \_\_\_, 82 USPQ2d at 1396. *If any of these findings cannot be made, then this rationale cannot be used to support a conclusion that the claim would have been obvious to one of ordinary skill in the art.* See MPEP 2143.

As noted *supra*, the subject claims relate to the use of attribution to express management information in an application or service. Particularly, in regards to claim 14, claim 14 is dependent on claim 1. As described in Section II above, Gibbons does not recite *an attribution component that facilitates attributing selected parts of code of the application or service with management information or management information is identified within the attributed application or service using a uniform resource identifier*. Therefore, Gibbons does not recite each and every element of the independent claim and Gschwind is silent with regard to the aforementioned deficiencies presented by Gibbons. Therefore, Applicants' representative respectfully submits that Gibbons, individually or as modified by Gschwind, does not show all the claimed elements to be known, and that the cited art does not sufficiently support a conclusion of obviousness.

Regarding claim 31, neither Gibbons nor Gschwind, individually or in combination, teach or suggest all the claim elements. In particular, claim 31 recites: *A system, embodied in a computer-readable storage medium, for managing an application or service, comprising: means for attributing selected parts of code of the application or service with health information; means for identifying the health information with a unique identifier; means for exposing the health information in the form of instrumentation definitions; means for cataloging the instrumentation definitions in a collection of instrumentation definitions; and means for controlling the application or service based upon the exposed instrumentation definitions when the application or service is installed on the system.*

Following a rationale similar to that of the discussion of claim 1 above, Applicants' representative submits that claim 32, as incorporated into claim 31, *means for identifying the health information with a unique identifier*, is not described or suggested by Gibbons and Gschwind is silent with regard to the aforementioned deficiencies presented by Gibbons. The Examiner indicates on pages 13-14 of the Office Action that Gibbons discloses *the system of claim 31, further comprising means for identifying the health information with a unique identifier*. However, as noted *supra*, Gibbons is silent with regards to identifying *health information with a unique identifier*. Furthermore, Gschwind, col. 7: 48 – col. 8: 48; and col. 3: 37 – col. 4: 24, fails to make up for the deficiencies of Gibbons. Rather, Gschwind describes the steps performed by a wrapper module. The wrapper module receives an implementation class of

a desired distributed object from an extractor module. The wrapper module “wraps” the desired distributed object implementation generating a wrapped distributed object. Gschwind fails to recite *identifying the health information*, which has been attributed to selected parts of code of an application or service, *with a unique identifier*. Therefore, Applicants’ representative respectfully submits that Gibbons and Gschwind, alone or in combination, do not show all the claimed elements to be known, and that the cited art does not sufficiently support a conclusion of obviousness.

Regarding claim 37, the claim is patentable for at least the same reasons that independent claim 1 is patentable, as it depends respectively therefrom. Applicants’ representative respectfully submits that Gibbons, individually or as modified by Gschwind, does not show all the claimed elements to be known, and that the cited art does not sufficiently support a conclusion of obviousness.

In view of at least the foregoing, it is readily apparent that Gibbons and Gschwind, alone or in combination, do not show all the claimed elements of claims 14, 31 and 37 to be known, and that the references do not support a conclusion of obviousness. Respectfully, these rejections should be withdrawn.



**CONCLUSION**

The present application is believed to be in condition for allowance in view of the above comments and amendments. A prompt action to such end is earnestly solicited.

In the event any fees are due in connection with this document, the Commissioner is authorized to charge those fees to Deposit Account No. 50-1063 [MSFTP522US].

Should the Examiner believe a telephone interview would be helpful to expedite favorable prosecution, the Examiner is invited to contact Applicants' undersigned representative at the telephone number below.

Respectfully submitted,

AMIN, TUROC & CALVIN, LLP

/Timothy J. Van Tuinen/

Timothy J. Van Tuinen

Reg. No. 62,016

AMIN, TUROC & CALVIN, LLP  
57<sup>TH</sup> Floor, Key Tower  
127 Public Square  
Cleveland, Ohio 44114  
Telephone (216) 696-8730  
Facsimile (216) 696-8731